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11 UNITED STATES DISTRICT COURT

12 DISTRICT OF NEVADA

13
14 JULIANO ROSARIO and FRANK
15 ROSARIO,
16

Case No. 2:13-cv-00362 (JCM) (PAL)

Plaintiffs,

vs.

17 CLARK COUNTY SCHOOL DISTRICT,
18 EMILE WOZNIAK in his official capacity,
19 RON ISAACS in his official capacity,
20 DARREL BROWN, individually and in his
21 official capacity, LAURIE EVANS
individually and in her official capacity, ERIC
GYGATZ, individually and in his official
capacity, and JIM DINKE, individually and
in his official capacity,

ORDER DENYING PLAINTIFFS'
MOTION FOR PRELIMINARY
INJUNCTION

Defendants

22
23 Plaintiffs filed an ex parte application for injunctive relief. (Doc. # 3) Defendants filed a
24 response in opposition to ex parte application for injunctive relief or, in the alternative, application
25 for preliminary injunctive relief. (Doc. # 12). Plaintiffs' filed a reply. (Doc. #15).
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27
28

1 A hearing in the above-entitled matter was held on April 10, 2013 at 10:30 a.m. with counsel
 2 appearing for all parties. After reviewing the pleadings on file herein and entertaining the argument
 3 of counsel, the court finds the following:

- 4 1. Juliano Rosario, a high-school student within Clark County School District ("CCSD")
 5 and his father Frank Rosario, seek injunctive relief and in so doing request the Court
 6 return plaintiff Juliano to Desert Oasis High School ("Desert Oasis") for the remainder
 7 of his senior year, request that Juliano be allowed to attend prom and other events at
 8 Desert Oasis, seek to prohibit the communication of Juliano's discipline records and
 9 tweets during the pendency of the action and seek to enjoin CCSD from punishing
 10 Juliano in any way.
- 11 2. A preliminary injunction is an extraordinary remedy that may not be granted unless the
 12 movant can clearly show "1) he is likely to succeed on the merits of such a claim; 2) he
 13 is likely to suffer irreparable harm in the absence of preliminary relief; 3) the balance of
 14 equities tips in his favor; and 4) that an injunction is in the public interest." *Winter v.*
 15 *NRDC, Inc.*, 555 U.S. 7, 20, 129 S. Ct. 365, 172 L.Ed.2d 249 (2008).
- 16 3. Plaintiffs have failed to satisfy their burden of demonstrating that they will suffer
 17 irreparable injury if the preliminary injunction they have requested is not issued.
 18 Although plaintiffs allege that Juliano will be harmed because he will not graduate with
 19 his friends at Desert Oasis, will not be able to attend the Desert Oasis prom, is not being
 20 taught by his former teachers at Desert Oasis and will not be able to attend his sister's
 21 cheerleading events at Desert Oasis, such allegations do not constitute the "irreparable
 22 injury" requisite required for the issuance of a preliminary injunction.
- 23 4. Additionally, to the extent plaintiffs' contend that Juliano's millennium scholarship is in
 24 jeopardy due to defendants' act of disciplining Juliano, such injury is entirely
 25 speculative. "Speculative injury does not constitute irreparable injury." *Goldie's*
 26 *Bookstore, Inc. v. Superior Court of Cal.*, 739 F.2d 466, 472 (9th Cir. 1984).

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- 1 5. As plaintiffs have not shown irreparable harm, the court need not reach a decision
- 2 regarding the remaining factors set forth in *Winter v. NRDC, Inc.*, 555 U.S. 7, 20, 129 S.
- 3 Ct. 365, 172 L.Ed.2d 249 (2008).
- 4 6. For the foregoing reasons, plaintiffs' ex parte motion for injunctive relief is DENIED.

IT IS SO ORDERED.

Dated this 23rd day of April, 2013

Jens C. Mahan
UNITED STATES DISTRICT JUDGE

Respectfully Submitted by:

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